

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A

JUDGE, No. 04-239,

JUDGE RICHARD H. ALBRITTON, JR.

Florida Supreme Court

Case No. SC05-851

JUDICIAL QUALIFICATIONS COMMISSION'S MOTION TO COMPEL

COMES NOW the Florida Judicial Qualifications Commission ("JQC"), by and through the undersigned special counsel, and hereby files its Motion to Compel the deposition of Judge Albritton, and as grounds therefore, states as follows:

1. The JQC filed its notice of formal charges on May 19, 2005.
2. The undersigned began responding to discovery requests from Judge Albritton's counsel in early June, 2005.
3. In a letter dated June 29, 2005, the undersigned first asked Petitioner's counsel for available dates to schedule Judge Albritton's deposition. There was no response to this request and shortly after the June 29th letter was sent, Petitioner retained new counsel to represent him in this cause. Petitioner's new counsel requested an additional extension of time to respond to the Notice of Formal Charges.
4. In a letter dated August 19, 2005, the undersigned again responded to Judge Albritton's new counsel's discovery requests by re-producing documents previously disclosed to

Petitioner's former counsel. At the same time, the undersigned repeated his request to depose Judge Albritton at dates of his convenience in September.

5. In a letter dated September 1, 2005, the undersigned repeated his request to arrange a deposition date for Judge Albritton.

6. In late September, 2005, Petitioner's counsel, in response to yet another request from the undersigned to depose the Petitioner, advised the undersigned that he would be unwilling to agree to dates for the deposition prior to the undersigned producing certain privileged materials prepared by the JQC in the course of its investigation of Judge Albritton.

7. Despite numerous requests from the undersigned, outlined herein, Judge Albritton's counsel has refused to make Judge Albritton available for deposition.

8. Pursuant to Florida Rule of Civil Procedure 1.280(d), the Petitioner may not condition the availability of a witness for deposition upon the other party's invocation of a privilege in response to a discovery request.

For the foregoing reasons, the JQC respectfully requests this Court compel Judge Albritton to appear for deposition.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail this 28th day of November, 2005 to:

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